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**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Board of Supervisors

MEETING DATE September 10, 2013	CONTACT/PHONE Terry Wahler (805) 781-5621 twahler@co.slo.ca.us	APPLICANT Vintner Solar, LLC	FILE NO. AGP2012-00012
SUBJECT A proposal by Vintner Solar, LLC to rescind an existing Land Conservation Contract on a 97.21 acre parcel and simultaneously enter into a Solar-Use Easement pursuant to Government Code sections 51190 et seq. on an approximately 14.8 acre portion of the property and enter into a Replacement Land Conservation Contract on the remaining approximately 82.41 acre portion of the property to allow a 14.8 acre solar generating facility on the property requested under Minor Use Permit DRC2011-00062. The proposal includes consideration of the previously-adopted Negative Declaration. The property is located in the Agriculture land use category at 603 El Pomar Drive, about 1.5 miles northeast of the community of Templeton, in the El Pomar – Estrella planning area.			
RECOMMENDED ACTION The Agricultural Preserve Review Committee recommends approval of this request to rescind and simultaneously enter into a replacement Land Conservation Contract and Solar-Use Easement to the Board of Supervisors as follows: <div style="margin-left: 40px;"> Preserve Designation: El Pomar Agricultural Preserve No. 18 Minimum Parcel Size: 40 Acres (Replacement Contract) Minimum Term of Contract: 10 years Minimum Term of Solar-Use Easement: 10 years </div>			
ENVIRONMENTAL DETERMINATION The Environmental Coordinator finds that the previously adopted Negative Declaration (ED13-009) is adequate for the purposes of compliance with CEQA because no substantial changes are proposed in the project which will require major revision of the previous Negative Declaration, no substantial changes occur with respect to the circumstance under which the project is undertaken which will require major revision of the previous Negative Declaration, and no new information of substantial importance has been identified which was not known at the time that the previous Negative Declaration was adopted. (ED13-038)			
LAND USE CATEGORY Agriculture	COMBINING DESIGNATION None	ASSESSOR PARCEL NUMBER 033-231-026	SUPERVISOR DISTRICT(S) 5
PLANNING AREA STANDARDS: None applicable to Land Conservation Contract and Solar-Use Easement			
LAND USE ORDINANCE STANDARDS: Section 22.22.040C(2) – Minimum parcel size for new agricultural preserves			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242			

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EXISTING USES: Single family residences, accessory structures, corrals; & a commercial landscaping nursery business.	
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Agriculture/ grazing, scattered residences <i>South:</i> Agriculture/residences, grazing and an electrical sub-station <i>East:</i> Agriculture/vineyard <i>West:</i> Agriculture/Salinas River	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The Solar-Use Easement request was referred to: The Agriculture Department	
TOPOGRAPHY: Gently rolling	VEGETATION: Non-native grasses and forbs
PROPOSED SERVICES: Water supply: Existing uses include well, project proposes water truck delivery Sewage Disposal: On-Site (portable for construction process) Fire Protection: CAL FIRE	ACCEPTANCE DATE: June 3, 2013

PROJECT SUMMARY:

Background

This property is part of El Pomar Agricultural Preserve No. 18 established on 2/18/75 by Resolution 75-173. The landowner entered into a land conservation contract on 4/28/75 (approved by Resolution 75-332 and recorded on 5/8/75 as Document No. 14174, Book 1832 Page 1 through 17, inclusive). The historical use of the property has primarily been dry farming.

The applicant contacted staff last year and discussed the issues concerning their proposed solar electric generating facility. According to Table 2 of the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 (Rules of Procedure) electrical generating plants are prohibited on contracted land and are considered non-compatible uses.

Staff discussed the various options with the applicant including:

- avoiding property that is under Land Conservation Contract (selecting an alternate site on non-contracted land),
- filing a Notice of Nonrenewal and allowing the 10 year term to run on the contract before applying for a project,
- Cancellation, subject to stringent findings and cancellation fees
- Solar-Use Easement (under the provisions of the Wolk Bill – SB 618 – Government Code Section 51191 et. seq.) in order to rescind the Land Conservation Contract and replace it with a Solar-Use Easement

The applicant indicated that despite an extensive search no other non-contracted properties were available within proximity to this electrical sub-station. Small solar projects have significant locational constraints because they must be sited close to sub-stations with capacity to accept additional electrical generation and also need to locate close to appropriately sized electric distribution lines, otherwise the cost of the infrastructure to feed electricity into the grid is prohibitive. For these reasons, the applicant chose to continue with this site and apply for a Solar-Use Easement and submitted the application in the spring of this year.

Wolk Bill – SB 618 – Government Code Section 51191

Senate Bill 618 (The Wolk Bill) was developed in response to mounting pressure from developers of utility scale solar facilities to convert Williamson Act contracted land to solar facilities. The bill, which became effective in January of 2012, is an effort to balance the State-mandated requirement to increase renewable energy with the State's long standing goal to protect agricultural land.

Recently, in some counties, Williamson Act land conservation contracts have been subject to cancellation on properties with prime agricultural soils. Senate Bill 618 provides an incentive to direct these projects to marginally productive or physically impaired agricultural lands and off of prime land by allowing Williamson Act contracts to be converted to solar-use easements in certain cases.

The following criteria from the Bill limits solar-use easements to properties with the characteristics outlined below.

(1) The land meets either of the following:

(A) The land consists predominately of soils with significantly reduced agricultural productivity for agricultural activities due to chemical or physical limitations, topography, drainage, flooding, adverse soil conditions, or other physical reasons.

(B) The land has severely adverse soil conditions that are detrimental to continued agricultural activities and production. Severely adverse soil conditions may include, but are not limited to, contamination by salts or selenium, or other naturally occurring contaminants.

(2) The parcel or parcels are not located on lands designated as prime farmland, unique farmland, or farmland of statewide importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Natural Resources Agency, unless the Department of Conservation, in consultation with the Department of Food and Agriculture, determines that a parcel or parcels are eligible to be placed in a solar-use easement based on the information provided in subdivision (b) that demonstrates that circumstances exist that limit the use of the parcel for agricultural activities. For purposes of this section, the important farmland designations shall not be changed solely due to irrigation status.

In addition to the above requirements the county must review and approve a proposed management plan, a restoration plan and a performance bond for restoration, in consultation with the State of California Department of Conservation.

Proposed Solar Project

On August 16, 2013, Minor Use Permit DRC2011-00062 was approved for an approximately 1.5 megawatt (MW) solar electric generating facility on an approximately 14.8 acre portion of a 97.21 acre parcel. The project includes:

- An application to rescind an existing Land Conservation Contract on a 97.21 acre parcel and replace it with a new Solar-Use Easement for a ten year minimum pursuant to Government Code sections 51190 et seq. on an approximately 14.8 acre portion of the property and a Replacement Land Conservation Contract on the remaining approximately 82.41 acre portion of the property,
- A Minor Use Permit to authorize construction of the solar generating facility including 7,350 photo-voltaic (PV) modules, pad-mounted inverters and transformers,

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approximately 100 feet of underground conduit from the converters/transformers to the existing Pacific Gas and Electric (PG&E) electrical distribution line, and other related equipment.

The project includes a decommissioning plan which will result in disconnection from the electrical grid, complete removal of and disposal of all project components including solar modules, racks, mounting poles, wire, conduit, junction boxes, concrete pad, fencing and monitoring equipment, and restoration of the site to its pre-installation condition. Decommissioning, reclamation, and restoration is expected to take about one month.

Site and Area Characteristics

The property is located north east of Templeton in an area characterized by dry farming and grazing with irrigated vineyards located to the east. A Pacific Gas and Electric substation is located across El Pomar Road. Many of the surrounding properties are under agricultural preserves and land conservation contracts.

The site has been used historically for dry farming although wells producing sufficient water are available on the property. The property also has an active commercial nursery on the western portion of the site.

The following table shows the Natural Resources Conservation Service soils rating of the site:

Land Capability Class		Irrigated Crop Suitability	Rangeland Suitability	Dry Farm Suitability	Acres
If Irrigated	Non-Irrigated				
2	4	suited	suited	suited	70.51
7	7	NA	well suited	suited	15.5
6	6	NA	well suited	suited	11.2
				Total	97.21

Exhibit A shows the location, topography, and land use designations of the site and adjacent properties.

Compliance with the Williamson Act and the Rules of Procedure

Replacement Land Conservation Contract

The Rules of Procedure provide that a property must first be under an Agricultural Preserve in order to qualify for a Land Conservation Contract as an individual property. The property is already under an agricultural preserve subject to the Rules of Procedure that were effective in 1975. Consistent with the recommendation of the California Department of Conservation, Counsel has advised that Government Code section 51190 et seq. pertaining to solar-use easements provides that the portion of the contracted land not proposed for use as a solar project remain under land conservation contract while the solar project site, a sub-site of the larger property, must be placed under a solar-use easement to be consistent with the Williamson Act. Thus, the property's agricultural land use and replacement contract may be considered consistent with the underlying agricultural preserve and the Williamson Act. The County's *Rules of Procedure* are silent as to solar-use easements and State law (Government Code section 51190 et seq) would govern the establishment of solar-use easements.

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The appropriate term for the Replacement Land Conservation Contract is 10 years because the property is located less than 1 mile from the urban reserve line of Templeton.

The appropriate minimum parcel size for the Replacement Land Conservation Contract is 40 acres because that is the minimum parcel size of the current land conservation contract.

Solar-Use Easement

Government Code Section 51191 allows a landowner with contracted land to submit an application to the county for a solar-use easement. The application must include detailed information about the property that is included in a petition that the county refers to the Department of Conservation for a determination on whether the particular property in question qualifies for a solar-use easement. After consultation with the Department of Food and Agriculture, the Department of Conservation may determine that the property meets the criteria in the Government Code after which the county and the landowner may mutually agree to rescind a contract on "marginally productive" agricultural land in order to simultaneously enter into a "solar-use easement".

A management plan must also be provided that describes how the soil will be managed during the life of the easement, how impacts to adjacent agricultural operations will be minimized, and how the land will be restored to its previous general condition, as it existed at the time of project approval, upon the termination of the easement.

A Solar-Use Easement Agreement Granting a Solar-Use Easement to the County of San Luis Obispo (the "Solar-Use Easement Agreement") must be approved by the Board of Supervisors. A rescission fee based on the land's current market value of either 6.25 percent for a standard Williamson Act contract or 12.5 percent for land covered by a Farmland Security Zone contract. The county must forward the fee to the State Controller in the manner similar to a Williamson Act contract cancellation fee. (GC § 51255.1, subd. (c).) The Assessor in his letter to the Board of Supervisors dated July 31, 2013, has indicated that the rescission valuation of the property is \$300,000.00 and the rescission fee is a total of \$18,750.00, the amount the Board is certifying to the County Auditor.

To verify that the land is truly marginally productive or physically impaired, the applicant provided the county with the following information that was then referred to the Department of Conservation:

- A written narrative demonstrating that even under the best currently available management practices, continued agricultural practices would be substantially limited due to the soil's reduced agricultural productivity from chemical or physical limitations.
- A recent soil test demonstrating that the characteristics of the soil significantly reduce its agricultural productivity.
- An analysis of water availability demonstrating the insufficiency of water supplies for continued agricultural production.
- An analysis of water quality demonstrating that continued agricultural production would, under the best currently available management practices, be significantly reduced.
- Crop and yield information for the past six years.

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California Department of Conservation (DOC) has reviewed the petition and has concluded that the 14.8 -acre project site would be eligible for A Solar-Use Easement as outlined in Government Code 51191. Their findings are contained in their attached letter of June 3, 2013, and are summarized below:

Based on site conditions and land classification, the fact that the land has not been developed for irrigated agriculture, and that it is likely that the land would not be mapped as Prime, Unique, or Farmland of Statewide Importance; the Department believes that this project site would be eligible for rescission of the existing Williamson Act contract and entry into a solar-use easement.

However, per Government Code Section 51191.3(c) a performance bond, letters of credit, a corporate guarantee, or other security measurement is required to address decommissioning issues on the project site prior to termination of the contract. Before the County can record the solar-use easement, a written agreement regarding the restoration security must be in place. It is suggested that the solar-use easement agreement also address the financial security and the ability to make adjustments as necessary through the life of the solar-use easement.

The County Agriculture Department staff reviewed the petition for a solar-use easement and the DOC letter and responded as follows: *"The Agriculture Department recognizes that the DOC, as lead agency, has indicated that the project site would be eligible for rescission of the existing Williamson Act contract and entry into a solar-use easement as long as identified solar-use easement recording requirements are met."*

Conclusions

The Department of Planning and Building also acknowledges the DOC determination as paraphrased below from their letter of June 3, 2013:

1) Based on historic use and management practices the site meets the definition of "land consists predominantly of soils with significantly reduced agricultural productivity for agricultural activities due to chemical or physical limitations, topography, drainage, flooding, adverse soil conditions, or other physical reasons".

2) The parcel is not located on lands designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program.

3) Demonstration that even under the best currently available management practices continued agricultural practices would be substantially limited due to the soils reduced agricultural productivity from chemical or physical limitations because of limited water availability due to State Water Resources Control Board pumping restrictions.

4) A recent soils test demonstrating that the characteristics of the soil significantly reduce its agricultural productivity due to having soils described as "well drained" (do not retain moisture well). (The DOC did not disagree with the landowner's characterization of these Class 4 soils as "marginally productive" due to being "well drained" and therefore not suitable for irrigation.)

5) An analysis of water availability demonstrating the insufficiency of water supplies for continued agricultural production because although there are water wells producing adequate water on the adjacent parcel owned by the Finley family, the owner stated in the petition that the State Water

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Resources Control Board restricts pumping during drought periods and therefore they do not consider their water source reliable.

6) An analysis of water availability demonstrating that continued agricultural production would under the best currently available management practices, be significantly reduced due to limited water availability as noted above.

7) Crop & yield information for the past six years is not available due to marginal dry farm crop production and the DOC does not believe this section is applicable.

8) The DOC believes that the restoration plan and decommissioning plan satisfies the requirement for: A management plan describing how the soil will be managed during the life of the easement, how impacts to adjacent agricultural operations will be minimized, how the land will be restored to its previous general condition, as it existed at the time of project approval, upon termination of the easement.

The Department of Planning and Building also acknowledges the need to balance the State-mandated requirement to increase renewable energy with the State's long standing goal to protect agricultural land.

The appropriate term for the Solar-Use Easement is 20 years because that is the term specified in Government Code Section 51191 et seq. (unless a 10 year term is requested by the applicant). In this case, the applicant and landowner have requested a 10 year term.

Agricultural Preserve Review Committee (APRC)

The following is an excerpt from the Draft Minutes of the Regular Meeting of the Agricultural Preserve Review Committee held on August 12, 2013, at the Veteran's Hall, San Luis Obispo, California, at 1:30 p.m.

Terry Wahler, staff: presents staff report, describes the property, history and background on solar-use easements, government code requirements, replacement land conservation contract. Notes that the applicant requested a 10 year term on the solar-use easement as allowed by the Government Code.

Lynn Moody, Alternate Soil Science Member. Asks if the land use permit for the project has been approved.

Terry Wahler, responds that the minor use permit is being considered at a Planning Department Hearing later in the week (8-16-13) and that the goal was to get APRC comments and a recommendation before action on the minor use permit.

Lynn Moody: expresses concern about references to soils in the staff report.

Terry Wahler: asks for clarification.

Lynn Moody: clarifies that her concern is not about the proposal to take a portion of the property out of contract and use it for a small solar facility but she does not agree with the way the soils are characterized. Explains that she agrees that the soils are "well drained" but does not agree that this is synonymous with the soil "not being moisture retaining" and not suitable for irrigation.

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Terry Wahler: explains that the land owner and applicant retained a professional consultant "Precision Ag consulting" to evaluate the soils and prepare a report that became part of the petition sent to the State Department of Conservation (DOC) for review. Further notes that DOC determined that the property met the requirements of the Solar-Use Easement section of the Government Code, and the staff report relied on this information, deferring to the DOC.

Bob Finley (land owner): explains historical farming use and his experience with irrigation relative to soils. States that historically this part of the property has had really poor soil, and what the consultant means is the water runs off really well. He notes that the solar-use easement site is the worst part of property in terms of agriculture.

Dick Nock: Asks what physically will be on the 14.8 acre solar project site.

Steve Broyer, ECOs Energy / Vintner Solar, LLC: explains that there will be multiple rows of panels, 54 panels per row, six blocks of panels. Explains that a solar panel itself is 3 feet by 6 feet with ground mounted steel pier "I" beams driven into ground with very little concrete so it will be easy to restore the site and the decommissioning will be easy. Further describes the project: A common trench with all power lines tied to an inverter system which converts DC to AC current which is then tied to PG&E's interconnection point. Adds that of the 14.8 acres approximately 38 to 42 percent of footprint is ultimately covered by a panel if looking from an aerial view.

Discussion ensues.

Steve Broyer: further explains that the project is a 1.5 megawatt facility and that 1 megawatt typically serves the electrical needs of 150 homes so this facility will power 250 residences. Power will go to supply power during peak demand. Notes that it is helpful to have smaller facilities close to sub stations to help with instantaneous demand.

Jennifer Anderson: Asks about longevity. How long will the plant be in place?

Steve Broyer: notes that the Power Purchase Agreement with PG&E is for 20 years and that they also will have a decommissioning condition with the county in 20 years (project life specified by the minor use permit) including the requirement to post a bond for decommissioning.

Lynda Auchinachie: asks if this is a 20 year project, how come they are requesting a 10 year term?

Steve Broyer: responds that the current land conservation contract has a 10 year term.

Terry Wahler: explains that the solar-use easement term can be structured in different ways, either a fixed term, or a term with annual renewal clause. Adds that staff didn't want to have a 20 year term on the solar-use easement and 10 year term on the replacement land conservation contract. Notes that this would serve no purpose, since the sole reason for the solar-use easement is to allow the electric generating plant on contracted land. Notes that either party to a contract can serve a Notice of Nonrenewal.

Bob Finley: states that he wants to be out of the land conservation contract eventually since he hopes to divide the property in order to settle the estate in future.

Dick Nock: asks how much more revenue the 14.8 acre solar site is going to generate.

Michael Garcia: speaks to property tax change under solar-use easement.

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Dick Nock: asks if this would involve an increase in property tax for the county on the 14.8 acres since the land use would be for used for a solar facility as opposed to the current limited agricultural use.

Michael Garcia: responds that they have not tackled this yet but preliminary review indicates the assessment will probably go up some.

Bob Finley: asks if recission fee goes to county.

Terry Wahler: responds, no, the Government Code stipulates that it goes to the State DOC [Controller] not to the county. Adds that the recission fee is sort of like a cancellation in regards to a financial penalty but that it is much less for a solar-use easement. It's a pass through to the State.

Discussion continues.

Irv McMillan, Environmental Organization Member: states that he thinks it's a good use for this piece of land, since it is obviously not prime land. Asks at what point can the county re-evaluate the Minimum Parcel Size for conveyance in the contract?

Terry Wahler: explains when Minimum Parcel Size is typically reset. Notes that this land conservation contract which was entered into under different eligibility criteria in 1975 has a 40 acre Minimum Parcel Size.

Irv McMillan: asks if this appropriate since it is basically dry farm property not irrigated prime land.

Terry Wahler: responds that the Minimum Parcel Size was discussed but, that County Counsel advised that the Government Code did not stipulate that the remaining contracted land be re-evaluated under current eligibility standards.

Irv McMillan: states that he thought whenever there was an amendment we could re-evaluate eligibility.

Lynda Auchinachie: asks, specific to a solar-use easement, are you saying we don't get to re-evaluate the property for eligibility?

Terry Wahler: explains that this was discussed specifically and County Counsel advised that the remaining contracted land was not required to be reevaluated under current eligibility standards.

James Orton, Deputy County Counsel: explains that the Government Code provides that when a solar-use easement is requested it replaces the land conservation contract. Notes that this request is different because the solar-use easement was requested for only a portion of the contracted land. Further adds that the DOC (in their letter of review) has taken the position that even though the Code requires that a contract be replaced by a solar use easement, they are allowing it over a portion of the contract. Counsel feels that there is legal authority from DOC to do it on a portion of the property.

Dick Nock: says he understands that in the past solar projects were not allowed on contracted land. Asks if this is a new law.

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Terry Wahler: responds that yes, this is a new state law. The new solar-use easement law allows for a land owner with nonprime, marginally productive land to petition the state for a solar-use easement to allow solar projects on contracted land. Adds that currently the county's Rules of Procedure don't allow electric generating plants on contracted land. Notes that onsite solar panels are allowed, but electric generating plants for production of off-site power are not allowed without approval of a solar-use easement.

Following the discussion, Dick Nock moved to recommend that the Board of Supervisors approve this request to rescind an existing Land Conservation Contract and simultaneously enter into a Solar-Use Easement pursuant to Government Code sections 51190 et seq. on an approximately 14.8 acre portion of the property and enter into a Replacement Land Conservation Contract on the remaining approximately 82.41 acre portion of the property. Preserve Designation: El Pomar Agricultural Preserve No. 18. Minimum Parcel Size: 40 Acres (Replacement Contract). Minimum Term of Replacement Contract: 10 years. Minimum Term of Solar Use Easement: 10 years. This motion was seconded by Jennifer Anderson, and carried on an 8 - 3 vote with the Soil Science and Agriculture Department Members abstaining, and Environmental Organization Member voting "No". The Land Conservancy of San Luis Obispo and Wine Industry members being absent.

Irv McMillan: states that although he is in favor of the solar-use easement and that small solar facilities are a good thing, his reason for voting "no" is that he feels a 40 acre Minimum Parcel Size is inappropriate for the replacement land conservation contract.

Lynn Moody: states her reason for abstaining is because she feels the Ag consultant did not characterize the soils accurately, not that the solar-use easement is inappropriate for the site.

Lynda Auchinachie: states her reason for abstaining has to do with procedural concerns about this proposal, and that she would prefer to see the Rules of Procedure changed to allow small solar projects on contracted land under appropriate circumstances where the remaining property is large enough and has a qualifying agricultural use.

RECOMMENDATIONS

The Agricultural Preserve Review Committee recommends approval of this request to rescind and simultaneously enter into a replacement Land Conservation Contract and Solar-Use Easement to the Board of Supervisors as follows:

Preserve Designation: El Pomar Agricultural Preserve No. 18
Minimum Parcel Size: 40 Acres (Replacement Contract)
Minimum Term of Contract: 10 years
Minimum Term of Solar-Use Easement: 10 years

FINDINGS

Environmental Determination

A. Consider and rely on the Negative Declaration (ED13-009) that was previously adopted on August 16, 2013, in accordance with the applicable provisions of the California Environmental Quality Act. The previously-adopted Negative Declaration (ED13-009) is adequate for the purposes of compliance with CEQA because no substantial changes are proposed in the project which will require major revision of the previous Negative Declaration, no substantial changes

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occur with respect to the circumstance under which the project is undertaken which will require major revision of the previous Negative Declaration, and no new information of substantial importance has been identified which was not known at the time that the previous Negative Declaration was adopted.

B. The proposed replacement land conservation contract meets the original eligibility criteria in the San Luis Obispo County Rules of Procedure to Implement the Land Conservation Act of 1965 from the original land conservation contract.

C. The proposed replacement land conservation contract is consistent with the established agricultural preserve.

D. The proposed replacement land conservation contract and the site's long term commercial agriculture are appropriate and consistent with the character of the surrounding area.

E. The proposed solar-use easement meets the requirements of the Government Code sections 51190 et seq. as determined by the California Department of Conservation.

F. The proposed Solar-Use Easement is consistent with Government Code Section 51191 et seq.

G. The current land conservation contract on the property was entered into on February 18, 1975, under the County's Rules of Procedure to Implement The California Land Conservation Act of 1965 that were effective at that time. For the purpose of implementing the Solar-Use Easement on the 14.8 acre portion of the site as prescribed in Government Code 51191 et seq, continuing in effect the existing contract provisions in a replacement land conservation contract on the remaining 82.41-acre portion of the parcel is considered compliant because of evidence in the record which demonstrates the following:

- a. A commercial agricultural use has been maintained on the property;
- b. Use of the land has been limited to those compatible with uses listed in Table 2 of the County's Rules of Procedure to Implement The California Land Conservation Act of 1965; and
- c. The parcel adheres to the existing minimum parcel size for conveyance and creation of new parcels specified in the original contract.

H. For the purpose of implementing the Solar-Use Easement on the 14.8 acre project site, a replacement land conservation contract on the remaining 82.41 acre portion of the property will be in compliance with the California Land Conservation Act of 1965 because:

- a. The current contract will be rescinded and an identical contract covering the remainder of the site minus the solar-use easement area will be simultaneously entered into with the County.
- b. The remaining acreage under the replacement land conservation contract will continue to be cultivated, will limit land uses to compatible uses in Table 2 of the County's Rules of Procedure, and will exceed the 40 acre minimum parcel size specified in the original contract.

Report prepared by Terry Wahler, Land Conservation Program
and reviewed by Ellen Carroll, Environmental Coordinator